

Message Text

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ACTION STR-04

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TAGS: ETRD, GATT, MTN

SUBJECT: CANADIAN MTN DEL QUESTIONS ON AGRICULTURAL
MARKETING ORDERS

REF: MTN GENEVA 6004 #

FOLLOWING IS TEXT OF LETTER FROM CANADIAN MTN
DEL INQUIRING ABOUT U.S. AGRICULTURAL MARKETING
ORDERS PROGRAM (REFTEL).

QUOTE

YOU WILL RECALL THAT AT OUR INFORMAL BILATERAL MEETING
OF JULY 16 THERE WAS SOME DISCUSSION REGARDING THE OPERATION OF
USA MARKETING ORDERS AND HOW THEY AFFECT CERTAIN AGRICULTURAL
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IMPORTS. IN ORDER TO CLARIFY THE SITUATION AND TO SEE TO WHAT

EXTENT SUCH MEASURES MAY FALL WITHIN THE SCOPE OF THE MTN SAFEGUARDS GROUP, IT WAS AGREED THAT, AS A FIRST STEP, THE CANADIAN DELEGATION WOULD OUTLINE IN WRITING SOME OF THE COMMENTS AND QUESTIONS WE HAVE REGARDING THE OPERATION OF USA MARKETING ORDERS.

COVERAGE AND OPERATION:

IT IS OUR UNDERSTANDING THAT USA MARKETING ORDERS ARE IMPOSED UNDER THE PROVISIONS OF SECTION 8 OF THE AGRICULTURAL MARKETING AGREEMENT ACT OF 1937, AS AMENDED. SECTION 8E SPECIFIES THAT WHENEVER A REGIONAL MARKETING ORDER IS ISSUED BY THE SECRETARY OF AGRICULTURE (WHICH REGULATES THE GRADE, SIZE, QUALITY OR MATURITY OF CERTAIN DESIGNATED PRODUCTS, I.E. TOMATOES, AVOCADOS, MANGOES, LIMES, GRAPEFRUITS, GREEN PEPPERS, IRISH POTATOES, CUCUMBERS, ORANGES, ONIONS, WALNUTS, DATES OR EGGPLANTS) IMPORTS OF SUCH PRODUCTS INTO THE UNITED STATES ARE PROHIBITED UNLESS THEY COMPLY WITH THE GRADE, SIZE, QUALITY AND MATURITY SPECIFICATIONS OF THE MARKETING ORDER.

THE LEGISLATION, IS HOWEVER, NOT VERY CLEAR AS TO HOW A MARKETING ORDER PROMULGATED IN ONE REGION OF THE UNITED STATES AFFECTS THE MARKETING OF PRODUCTS IN OTHER REGIONS. OUR UNDERSTANDING IS THAT IF A MARKETING ORDER IS APPROVED FOR, SAY, OREGON WHICH SPECIFIES, FOR EXAMPLE, THAT ONLY GRADE A POTATOES OF A MINIMUM SIZE OF TWO INCHES IN DIAMETER CAN BE MARKETED, THIS REGULATION APPLIES TO ALL POTATOES MARKETED WITHIN OREGON OR EXPORTED FROM OREGON BUT DOES NOT AFFECT THE MARKETING OF DOMESTIC POTATOES IN THE OTHER FORTY-NINE STATES.

IF THIS INTERPRETATION IS CORRECT THERE APPEARS TO BE SIGNIFICANT DISCRIMINATION AGAINST IMPORTS. FOR EXAMPLE, CANADIAN POTATOES WOULD BE SUBJECT TO THE OREGON MARKETING ORDER IRRESPECTIVE OF THE FINAL DESTINATION IN THE USA WHEREAS POTATOES PRODUCED IN OTHER AREAS OF THE USA ARE NOT SUBJECT TO THE MARKETING ORDER IF THEY ARE NOT SHIPPED INTO OREGON. AS YOU CAN APPRECIATE ONCE A MARKETING ORDER IS IN FORCE THIS MEANS INCREASED COSTS FOR CANADIAN EXPORTERS SINCE THEY MUST MAKE SPECIAL ARRANGEMENTS TO SIZE, GRADE AND PACK ACCORDING TO THE MARKETING LIMITED OFFICIAL USE

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ORDER SPECIFICATIONS.

IN THE PAST CANADIAN EXPORTS OF POTATOES AND TO A LESSER EXTENT TOMATOES AND ONIONS HAVE BEEN THE PRODUCTS MAINLY AFFECTED BY USA MARKETING ORDERS. IN ADDITION, WE UNDERSTAND THAT USA GROWERS HAVE REQUESTED MARKETING ORDERS IN ORDER, INTER ALIA, TO CONTROL THE IMPORTS OF MEXICAN TOMATOES.

GATT IMPLICATIONS

WE WOULD BE INTERESTED IN YOUR DELEGATION'S VIEWS AS TO THE RELATIONSHIP OF THE MARKETING ORDER LEGISLATION WITH RESPECT TO THE USA'S GATT RIGHTS AND OBLIGATIONS. FOR EXAMPLE, WOULD THE USA CONSIDER THE IMPORT ACTION ASSOCIATED WITH A MARKETING ORDER TO FALL UNDER THE USUAL SAFEGUARD PROVISIONS I.E. ARTICLE XIX OR UNDER THE PROVISIONS OF ARTICLE XI 2(C)(I) (IMPORT RESTRICTIONS NECESSARY TO THE ENFORCEMENT OF GOVERNMENTAL MEASURES WHICH OPERATE TO RESTRICT THE QUANTITIES OF THE LIKE DOMESTIC PRODUCT TO BE MARKETED OR PRODUCED)?

I LOOK FORWARD TO RECEIVING YOUR REACTION TO THE ABOVE COMMENTS AND QUESTIONS.

END QUOTE WALKER

NOTE BY OCT: # REF AS RECEIVED.

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